IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 7762 of 2015 (O&M)
Date of Decision : 19.11.2015

Oriential Insurance Co. Ltd. ....Appellant

Versus

Smt. Suman and others ....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashwani Talwar, Advocate
for the appellant.

Surinder Gupta, J.

This is an appeal filed by Oriental Insurance Co. Ltd. against the award passed by the Motor Accident Claims Tribunal (later referred to as 'the Tribunal') whereby compensation of ₹ 4,70,000/- was awarded for the death of Master Sunny, aged 5 years in a motor accident with Car bearing registration No. HR-28-0001. As the appellant-Insurance Company has challenged the award only on the question of quantum of compensation, the detail facts of the case are not being discussed.

2. Learned counsel for the appellant-Insurance Company has argued that the Tribunal has taken income of the deceased as ₹ 30,000/- per annum while in the case of a non-earning person income as per 2^{nd} Schedule under Section 163-A of the Motor Vehicles Act (later referred to as 'the Act') is provided as ₹ 15,000/- per annum. The Tribunal should have taken notional income of the deceased as ₹ 15,000/- per annum.

3. The argument of learned counsel for the appellant-Insurance Company has no merit. In case of ***Kishan Gopal and another* vs. *Lal and others*, 2014 (1) SCC 244**, the accident

had taken place in the year 1992 and parameters allowing compensation in case of ***Lata Wadhwa vs. State of Bihar 2001 (8) SCC 197*** were considered. In view of the rupee value coming down drastically from the year 1994, the notional income of the deceased, who was 10 years of age, was assessed as ₹ 30,000/- per annum. In the instant case, the accident has taken place on 23.12.2012 and applying the parameters in case of ***Lata Wadhwa (supra)***, notional income of the deceased who was 5 years of age, taken as ₹ 30,000/- is not on higher side. The claimants have lost their child of the age of 5 years. Income of the deceased cannot be assessed using any parameter. In 2nd Schedule under Section 163-A of the Act, table prescribed for quantum of compensation permissible for 3rd party fatal accident/injury case claim was incorporated as per price index prevalent about two decades ago. With sharp increase in price index and decline in the value of rupee, to assess the notional income of an un-earning member as ₹ 15,000/- per annum is not justified. The Tribunal while assessing notional income of the deceased as ₹ 30,000/- per annum has not committed any error of law rather the approach by the Tribunal was very moderate calling for no interference.

4. It is quite unfortunate that the Insurance Companies are spending their energy in filing appeals in such cases and thereby adding to their expenses instead of settling disputes. Though, right of Insurance Company to file appeal cannot be taken away in any case but being in the public service and in the interest of society, the insurance Companies are required to give

a serious thought while spending public money on such litigation.

5. The instant appeal has no merit and the same is dismissed.

November 19, 2015 **(SURINDER GUPTA)**
jk **JUDGE**